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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,055	03/19/2004	Robin Hardie Stewart	1612.002	6962
7590	12/07/2004		EXAMINER	
Lawrence R. Franklin Franklin Consultants 46 Atlatl Lane Hedgesville, WV 25427				COHEN, AMY R
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/804,055	STEWART, ROBIN HARDIE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy R Cohen	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/19/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 14 and 16 are objected to because of the following informalities:

Claim 14, line 3 “the bottom segment” lacks proper antecedent basis in the claims.

Claim 16 is dependent upon claim 9, however, it appears that claim 16 should be dependent upon claim 14. For purposes of prosecution, Examiner interprets claim 16 to be dependent upon claim 14.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-7, 9, 10, 13, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goddard (UK Patent Application GB 2,214,209A) in view of Fink (U. S. Patent No. 3,917,231).

Goddard discloses a lane maker (Figs. 7, 9, 13) comprising: a plurality of interconnected traffic control cones (10), each of said traffic control cones comprising: a base (11), said base including a lane marker (24, held rotatably by 19) rotatably attached thereto and at least one anchor (13) fixedly attached thereto; and a conical cap (12) extending upwardly from said base.

Goddard discloses the lane maker comprising a light module (17, 23) mounted on said base behind said lane marker (Fig. 6).

Goddard does not disclose the lane maker wherein said lane marker comprises a housing, a tape, said tape being retractable within said housing, and a hitch at the free end of said tape, said hitch being configured to be releasably connected to an anchor on an adjacent cone; wherein said tape comprises a highly visible, web-like material, said material being flexible enough to coil within said housing; wherein said hitch is designed either to become unattached to the object to which it is attached, due to rotational torques imposed on said tape by said cone tipping over, or to break away from said tape, when subjected to a force beyond a pre-selected threshold; wherein said tape comprises a material from one of the following: electro-fibers, solar fibers, glass-beaded webs, and an ultrabright reflective material.

Fink discloses a lane maker comprising: a traffic control cone (Fig. 1) comprising: a lane marker (Fig. 3) rotatably attached to the traffic control cone (rotates through reel 13), said lane marker comprises a housing (19, 20), a tape (10), said tape being retractable within said housing (Col 2, lines 11-18), and a hitch (24) at the free end of said tape, said hitch being configured to be releasably connected to an anchor on another object (Col 2, lines 18-34); wherein said tape comprises a highly visible, web-like material, said material being flexible enough to coil within said housing (Figs. 1-4 and Col 1, lines 49-61); wherein said hitch is designed either to become unattached to the object to which it is attached, due to rotational torques imposed on said tape by said cone tipping over, or to break away from said tape, when subjected to a force beyond a pre-selected threshold (Col 2, lines 11-34, the hitch 24 is attached by a pin or nail, by example, this would detach from the object when subjected to rotational torques or a strong force); wherein

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said tape comprises a material from one of the following: electro-fibers, solar fibers, glass-beaded webs, and an ultrabright reflective material (in this case, ultrabright reflective material (Col 1, lines 53-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lane maker of Goddard, to have the lane marker comprise a tape in a housing, as taught by Fink, so that the lane marker would easily be stored within the traffic cone and extended from the traffic cone, making the lane makers more portable and easily handled.

4. Claims 3, 4, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goddard and Fink as applied to claims 1, 2, 5-7, 9, 10, 13, and 17-20 above, and further in view of Hart (U. S. Patent No. 6,499,858).

Goddard and Fink disclose the lane maker as described above in paragraph 3 and wherein said light module comprises an electronic circuit and a light (Goddard, Page 3, lines 20-29).

Goddard and Fink do not disclose a lane maker wherein said light module comprises a sensor, said sensor being responsive to external conditions to control the status of said light; wherein said sensor is responsive to one of the following to turn on the light: motion, particular audible sounds, incident light, and the level of light.

Hart discloses a lane maker comprising a traffic control cone (10) comprising a base (Figs. 1, 2, and 4) and comprising a light module (50) mounted on said base; wherein said light module (50) comprises a sensor (100), an electronic circuit (80), and a light (70), said sensor being responsive to external conditions to control the status of said light (Col 3, lines 53-61); wherein said sensor is responsive to one of the following to turn on the light: motion, particular audible sounds, incident light, and the level of light (Col 3, lines 53-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the light module of Goddard and Fink to include a sensor to control the light source being responsive to external conditions, as taught by Hart, so that the light source would only be activated when necessary, thereby reducing the power consumed and increasing the life of the light source.

5. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goddard and Fink as applied to claims 1, 2, 5-7, 9, 10, 13, and 17-20 above, and further in view of Barnard (U. S. Patent No. 4,256,050).

Goddard and Fink disclose the lane maker as described above in paragraph 3.

Goddard and Fink do not disclose a lane maker wherein said conical cap comprises conical segments which are capable of being collapsed to nest within the bottom segment and of extending into a full-sized cone; comprising manually operable constraining means for maintaining said segments in said extended full-sized cone status; wherein the horizontal cross-section of said conical segments are one of the following: circular, rectangular, and square.

Barnard discloses a lane maker (Figs. 1 and 2) comprising a traffic control cone (Fig. 1) comprising a base (1) and a conical cap (4) extending upwardly from said base, wherein said conical cap comprises conical segments which are capable of being collapsed to nest within the bottom segment and of extending into a full-sized cone (Figs. 1 and 2); comprising manually operable constraining means for maintaining said segments in said extended full-sized cone status (Col 4, lines 32-52); wherein the horizontal cross-section of said conical segments are one of the following: circular, rectangular, and square (Figs. 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lane maker of Goddard and Fink to be collapsible, as taught by Barnard, so that the lane maker would be more portable and easily handled.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goddard and Fink as applied to claims 1, 2, 5-7, 9, 10, 13, and 17-20 above, and further in view of Wood (U. S. Patent No. 6,681,715).

Goddard and Fink disclose the lane maker as described above in paragraph 3.

Goddard and Fink do not disclose a lane maker wherein said cones are color-coded to indicate the type of activity from which the traffic is being separated.

Wood discloses a lane maker wherein said cones are color-coded to indicate the type of activity from which the traffic is being separated (Col 3, lines 44-50 and Col 4, lines 50-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lane maker of Goddard and Fink to include color-coding, as taught by Wood since the use of common traffic and safety colors would quickly alert users as to the reason for the barrier (Wood, Col 3, lines 44-50 and Col 4, lines 50-54).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following applications and patents disclose traffic devices Penque, Jr. (U. S. PGPUB 2004/0060499), Perelli et al. (U. S. PGPUB 2003/0033742), Chen (U. S. PGPUB 2002/00062780), Carter (U. S. Patent No. 6,517,280), Eslambolchi et al. (U. S. Patent No.

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6,512,451), Aldstadt et al. (U. S. Patent No. 6,430,819), and Toman (U. S. Patent No. 5,760,686).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
November 22, 2004



Christopher Fulton  
Primary Examiner  
Tech Center 2800